

Introduced by Senators La Malfa and Correa

February 18, 2011

An act to amend Section 25150.7 of the Health and Safety Code, relating to hazardous waste.

LEGISLATIVE COUNSEL'S DIGEST

SB 909, as introduced, La Malfa. Treated wood waste: disposal.

(1) Existing law requires, among other things, treated wood waste, as defined, to be disposed of in either a class I hazardous waste landfill, or in a composite-lined portion of a solid waste landfill unit that meets certain requirements. Existing law requires each wholesaler and retailer of treated wood and treated wood-like products to conspicuously post information at specified locations. Existing law requires that the posted message contain, among other things, sources for obtaining further information, such as an Internet Web site and a toll free number. Existing law makes these, and other requirements, inoperative on June 1, 2012, and repeals them on January 1, 2013. A violation of the state's hazardous waste control laws is a crime.

This bill would specify the Internet Web site and the telephone number that are to be included in the posted message. The bill would delete the language pertaining to the inoperative date and the repeal date and would delete other obsolete language. By extending a crime, the bill would impose a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 25150.7 of the Health and Safety Code
2 is amended to read:
3 25150.7. (a) The Legislature finds and declares that this section
4 is intended to address the unique circumstances associated with
5 the generation and management of treated wood waste. The
6 Legislature further declares that this section shall not be construed
7 as setting a precedent applicable to the management, including
8 disposal, of other hazardous wastes.
9 (b) For purposes of this section, the following definitions shall
10 apply:
11 (1) "Treated wood" means wood that has been treated with a
12 chemical preservative for purposes of protecting the wood against
13 attacks from insects, microorganisms, fungi, and other
14 environmental conditions that can lead to decay of the wood and
15 the chemical preservative is registered pursuant to the Federal
16 Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. Sec. 136
17 ~~and following~~) *et seq.*).
18 (2) "Wood preserving industry" means business concerns, other
19 than retailers, that manufacture or sell treated wood products in
20 the state.
21 (c) This section applies only to treated wood waste that is a
22 hazardous waste, solely due to the presence of a preservative in
23 the wood, and to which both of the following requirements apply:
24 (1) The treated wood waste is not subject to regulation as a
25 hazardous waste under the federal act.
26 (2) Section 25143.1.5 does not apply to the treated wood waste.
27 (d) (1) Notwithstanding Sections ~~25157.8, 25189.5, 25189.5~~
28 and 25201, treated wood waste shall be disposed of in either a
29 class I hazardous waste landfill, or in a composite-lined portion
30 of a solid waste landfill unit that meets all requirements applicable
31 to disposal of municipal solid waste in California after October 9,
32 1993, and that is regulated by waste discharge requirements issued
33 pursuant to Division 7 (commencing with Section 13000) of the
34 Water Code for discharges of designated waste, as defined in
35 Section 13173 of the Water Code, or treated wood waste.

1 (2) A solid waste landfill that accepts treated wood waste shall
2 comply with all of the following requirements:

3 (A) Manage the treated wood waste so as to prevent scavenging.

4 (B) Ensure that any management of the treated wood waste at
5 the solid waste landfill prior to disposal, or in lieu of disposal,
6 complies with the applicable requirements of this chapter, except
7 as otherwise provided pursuant to subdivision (e) or by regulations
8 adopted pursuant to subdivision (g) (f).

9 (C) If monitoring at the composite-lined portion of a landfill
10 unit at which treated wood waste has been disposed of indicates
11 a verified release, then treated wood waste shall no longer be
12 discharged to that landfill unit until corrective action results in
13 cessation of the release.

14 ~~(e) (1) Treated wood waste is exempt from the requirements~~
15 ~~of this chapter if all of the following requirements are met:~~

16 ~~(A) The treated wood waste is managed so as to prevent~~
17 ~~scavenging.~~

18 ~~(B) The treated wood waste is not disposed of, except as allowed~~
19 ~~pursuant to subdivision (d).~~

20 ~~(C) The treated wood waste is not burned, recycled, reclaimed,~~
21 ~~or reused, except in accordance with the applicable requirements~~
22 ~~of this chapter and the regulations adopted pursuant to this chapter.~~

23 ~~(D) On and after July 1, 2005, the treated wood waste is not~~
24 ~~stored for more than 90 days and, when stored, is protected from~~
25 ~~run-on and run-off, and placed on a surface sufficiently impervious~~
26 ~~to prevent, to the extent practical, contact with and any leaching~~
27 ~~to soil or water.~~

28 ~~(E) The treated wood waste is not mixed with other wood waste~~
29 ~~prior to disposal.~~

30 ~~(F) The treated wood waste is handled in a manner consistent~~
31 ~~with all applicable requirements of the California Occupational~~
32 ~~Safety and Health Act of 1973 (Chapter 1 (commencing with~~
33 ~~Section 6300) of Part 1 of Division 5 of the Labor Code), including~~
34 ~~all rules, regulations, and orders relating to hazardous waste.~~

35 ~~(2) The exemption provided by this subdivision shall remain in~~
36 ~~effect until January 1, 2007, and as of that date is inoperative.~~

37 ~~(f)~~

38 (e) (1) Each wholesaler and retailer of treated wood and treated
39 wood-like products in this state shall conspicuously post
40 information at or near the point of display or customer selection

1 of treated wood and treated wood-like products used for fencing,
2 decking, retaining walls, landscaping, outdoor structures, and
3 similar uses. The information shall be provided to wholesalers and
4 retailers by the wood preserving industry in 22-point font, or larger,
5 and contain the following message:

6 **Warning—Potential Danger**

7 These products are treated with wood preservatives registered
8 with the United States Environmental Protection Agency and the
9 California Department of Pesticide Regulation and should only be
10 used in compliance with the product labels.

11 This wood may contain chemicals classified by the State of
12 California as hazardous and should be handled and disposed of
13 with care. Check product label for specific preservative information
14 and Proposition 65 warnings concerning presence of chemicals
15 known to the State of California to cause cancer or birth defects.

16 Anyone working with treated wood, and anyone removing old
17 treated wood, needs to take precautions to minimize exposure to
18 themselves, children, pets, or wildlife, including:

19
20 □ Avoid contact with skin. Wear gloves and long sleeved shirts
21 when working with treated wood. Wash exposed areas thoroughly
22 with mild soap and water after working with treated wood.

23
24 □ Wear a dust mask when machining any wood to reduce the
25 inhalation of wood dusts. Avoid frequent or prolonged inhalation
26 of sawdust from treated wood. Machining operations should be
27 performed outdoors whenever possible to avoid indoor
28 accumulations of airborne sawdust.

29
30 □ Wear appropriate eye protection to reduce the potential for eye
31 injury from wood particles and flying debris during machining.

32
33 □ If preservative or sawdust accumulates on clothes, launder
34 before reuse. Wash work clothes separately from other household
35 clothing.

36
37 □ Promptly clean up and remove all sawdust and scraps and
38 dispose of appropriately.

1 □ Do not use treated wood under circumstances where the
2 preservative may become a component of food or animal feed.

3
4 □ Only use treated wood that's visibly clean and free from surface
5 residue for patios, decks, or walkways.

6
7 □ Do not use treated wood where it may come in direct or indirect
8 contact with public drinking water, except for uses involving
9 incidental contact such as docks and bridges.

10
11 □ Do not use treated wood for mulch.

12
13 □ Do not burn treated wood. Preserved wood should not be burned
14 in open fires, stoves, or fireplaces.

15
16 For further information, go to ~~(Web site)~~ *the Internet Web site*
17 *for the Western Wood Preservers Institute*
18 *(<http://www.wwpinstitute.org>) or call ~~(toll-free number)~~ the toll*
19 *free number of the California Treated Wood Information Hotline*
20 *at 1-866-696-8315.*

21 In addition to the above listed precautions, treated wood waste
22 shall be managed in compliance with applicable hazardous waste
23 control laws.

24 (2) On or before July 1, 2005, the wood preserving industry
25 shall, jointly and in consultation with the department, make
26 information available to generators of treated wood waste,
27 including fencing, decking and landscape contractors, solid waste
28 landfills, and transporters, that describes how to best handle,
29 dispose of, and otherwise manage treated wood waste, through the
30 use either of a toll-free telephone number, Internet Web site,
31 information labeled on the treated wood, information
32 accompanying the sale of the treated wood, or by mailing if the
33 department determines that mailing is feasible and other methods
34 of communication would not be as effective. A treated wood
35 manufacturer or supplier to a wholesaler or retailer shall also
36 provide the information with each shipment of treated wood
37 products to a wholesaler or retailer, and the wood preserving
38 industry shall provide it to fencing, decking, and landscaping
39 contractors, by mail, using the Contractor's State Licensing Board's
40 available listings, and license application packages. The department

1 may provide guidance to the wood preserving industry, to the
2 extent resources permit.

3 ~~(g)~~

4 (f) (1) On or before January 1, 2007, the department, in
5 consultation with the ~~California Integrated Waste Management~~
6 ~~Board~~ *Department of Resources Recycling and Recovery*, the State
7 Water Resources Control Board, and the Office of Environmental
8 Health Hazard Assessment, and after consideration of any known
9 health hazards associated with treated wood waste, shall adopt and
10 may subsequently revise as necessary, regulations establishing
11 management standards for treated wood waste as an alternative to
12 the requirements specified in this chapter and the regulations
13 adopted pursuant to this chapter.

14 (2) The regulations adopted pursuant to this subdivision shall,
15 at a minimum, ensure all of the following:

16 (A) Treated wood waste is properly stored, treated, transported,
17 tracked, disposed of, and otherwise managed so as to prevent, to
18 the extent practical, releases of hazardous constituents to the
19 environment, prevent scavenging, and prevent harmful exposure
20 of people, including workers and children, aquatic life, and animals
21 to hazardous chemical constituents of the treated wood waste.

22 (B) Treated wood waste is not reused, with or without treatment,
23 except for a purpose that is consistent with the approved use of
24 the preservative with which the wood has been treated. For
25 purposes of this subparagraph, “approved uses” means a use
26 approved at the time the treated wood waste is reused.

27 (C) Treated wood waste is managed in accordance with all
28 applicable laws.

29 (D) Any size reduction of treated wood waste is conducted in
30 a manner that prevents the uncontrolled release of hazardous
31 constituents to the environment, and that conforms to applicable
32 worker health and safety requirements.

33 (E) All sawdust and other particles generated during size
34 reduction are captured and managed as treated wood waste.

35 (F) All employees involved in the acceptance, storage, transport,
36 and other management of treated wood waste are trained in the
37 safe and legal management of treated wood waste, including, but
38 not limited to, procedures for identifying and segregating treated
39 wood waste.

(3) This subdivision does not authorize the department to adopt a regulation that does one or more of the following:

(A) Imposes a requirement as an addition to, rather than as an alternative to, one or more of the requirements of this chapter.

(B) Supersedes subdivision (d) concerning the disposal of treated wood waste.

(C) Supersedes any other provision of this chapter that provides a conditional or unconditional exclusion, exemption, or exception to a requirement of this chapter or the regulations adopted pursuant to this chapter, except the department may adopt a regulation pursuant to this subdivision that provides an alternative condition for a requirement specified in this chapter for an exclusion, exemption, or exception and that allows an affected person to choose between complying with the requirements specified in this chapter or complying with the alternative conditions set forth in the regulation.

~~(h)~~

(g) (1) A person managing treated wood waste who is subject to a requirement of this chapter, including a regulation adopted pursuant to this chapter, shall comply with either the alternative standard specified in the regulations adopted pursuant to subdivision ~~(g)~~ (f) or with the requirements of this chapter.

(2) A person who is in compliance with the alternative standard specified in the regulations adopted pursuant to subdivision ~~(g)~~ (f) is deemed to be in compliance with the requirement of this chapter for which the regulation is identified as being an alternative, and the department and any other entity authorized to enforce this chapter shall consider that person to be in compliance with that requirement of this chapter.

~~(i)~~

(h) On January 1, 2005, all variances granted by the department before January 1, 2005, governing the management of treated wood waste are inoperative and have no further effect.

~~(j)~~

(i) ~~Nothing in this~~ This section ~~may~~ shall not be construed to limit the authority or responsibility of the department to adopt regulations under any other provision of law.

~~(k)~~

(j) On or before June 1, 2011, the department shall prepare and post on its Web site a report that makes a determination regarding

1 the successful compliance with, and implementation of, this
2 section.

3 ~~(l) (1) This section shall become inoperative on June 1, 2012,~~
4 ~~and, as of January 1, 2013 is repealed, unless a later enacted statute~~
5 ~~that becomes operative on or before January 1, 2013, deletes or~~
6 ~~extends the dates on which it becomes inoperative and is repealed.~~

7 ~~(2) Notwithstanding paragraph (1), any regulations~~

8 (k) A regulation adopted pursuant to this section on or before
9 June 1, 2012 shall continue in force and effect after that date, until
10 repealed or revised by the department.

11 SEC. 2. No reimbursement is required by this act pursuant to
12 Section 6 of Article XIII B of the California Constitution because
13 the only costs that may be incurred by a local agency or school
14 district will be incurred because this act creates a new crime or
15 infraction, eliminates a crime or infraction, or changes the penalty
16 for a crime or infraction, within the meaning of Section 17556 of
17 the Government Code, or changes the definition of a crime within
18 the meaning of Section 6 of Article XIII B of the California
19 Constitution.